



National Tribal Toxics Council

P.O. Box 15004 Flagstaff, AZ 86011
928-523-2005 Office 928-523-1266 Fax
www.tribaltoxics.org

Council Members

DIANNE BARTON
NTTC Chair
Columbia River Inter-
Tribal Fish Commission

RYAN CALLISON
Cherokee Nation of
Oklahoma

FRED COREY
NTTC Vice-Chair
Aroostook Band of
Micmacs

LARRY DUNN
Lower Elwha Klallam
Tribe

MARY JANE GOURNEAU
Lower Brule Sioux Tribe

GARY HAY
Copper River Native
Association

JOLENE KEPUN
Turtle Mountain Band of
Chippewa

RALPH MCCOLLERS
Poarch Band of Creek
Indians

RORY O'ROURKE
Port Gamble S'Klallam
Tribe

KATHLEEN SLOAN
Yurok Tribe

LANCE WHITWELL
Native Village of Venetie
Tribal Government

November 15, 2013

Jim Jones
Assistant Administrator
Office of Chemical Safety and Pollution Prevention (OCSPP)
USEPA Headquarters
1200 Pennsylvania Avenue N. W.
Mail Code: 7101M
Washington, DC 20460

RE: Consultation on Reassessment of PCB Use Authorizations

Dear Mr. Jones:

Thank you for your continued support of the National Tribal Toxics Council's role in OPPT programs on issues related to chemical safety, toxic chemicals, and pollution prevention. Among the key issues that the NTTC is focusing on are ways to improve meaningful consultation with tribes on EPA's efforts to reduce exposure to toxic chemicals and prevent pollution in Indian Country. EPA's TSCA rules and regulations play an important role in limiting the release of toxic chemicals into the environment and it is essential that consultation with tribes on rulemaking that can impact tribal exposure to contaminants be thorough and broad in scope. Rulemaking and policy decisions on persistent organic chemicals such as polychlorinated biphenyls (PCBs) are of key importance in Indian Country and need to be meaningfully addressed through the consultation process.

The NTTC very much appreciates the opportunity that the December 12, 2013 consultation on PCB Use Authorizations offers to tribes. However, we believe that the tribes have legitimate concerns regarding the rulemaking that were not addressed in the consultation invitation or supporting materials that were emailed on November 7, 2013. While the fact sheet lists estimated compliance costs to tribes from early electrical equipment replacements and light ballast replacements and disposal, no information was provided on several other key issues that are of great significance to tribes. These include issues listed under sections VII, X, XI, and XII of the published rulemaking (Federal Register, April 7, 2010, Volume 75., No. 66) including: the use of the 50 ppm level for excluded PCB products; the use of non-liquid PCBs; the use and distribution in commerce of PCBs in porous surfaces; the marking of PCB articles in use; or the reassessment of the definitions of "excluded manufacturing process", "quantifiable level/level of detection", and "recycled PCBs".

The NTTC's preferred alternative to correcting these omissions would be to raise these issues during the December consultation and to provide in advance of the meeting, fact sheets and assessments of the magnitude of impact that the 50 ppm allowable import level has on tribal communities and first foods. The NTTC commits to supporting your office through outreach efforts to better educate and engage the tribal community on this important rulemaking. Tribal leaders will be able to provide information on disproportionate environmental and health impacts that PCB use and distribution has on our community through the consultation process. Please let us know how we can assist you in this effort.

Sincerely,



Dianne Barton, Chair
National Tribal Toxics Council

CC:

Wendy Cleland-Hamnett, Director, EPA Office of Pollution Prevention and Toxics (OPPT)

JoAnn Chase, Director, American Indian Environmental Office

Caren Robinson, OCSPP Tribal Consultation Advisor

Nancy Stoner, Acting Assistant Administrator, EPA Office of Water

John Shoaff, Chief Liaison Branch, OPPT

Irina Myers, NTTC Project Officer, OPPT